

1 “(c) DEATH PENALTY PROCEDURES FOR CERTAIN
2 PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual
3 convicted of violating section 46502 of title 49, United
4 States Code, or its predecessor, may be sentenced to death
5 in accordance with the procedures established in chapter
6 228 of title 18, United States Code, if for any offense com-
7 mitted before the enactment of the Violent Crime Control
8 and Law Enforcement Act of 1994 (Public Law 103–322),
9 but after the enactment of the Antihijacking Act of 1974
10 (Public Law 93–366), it is determined by the finder of
11 fact, before consideration of the factors set forth in sec-
12 tions 3591(a)(2) and 3592(a) and (c) of title 18, United
13 States Code, that one or more of the factors set forth in
14 former section 46503(c)(2) of title 49, United States
15 Code, or its predecessor, has been proven by the Govern-
16 ment to exist, beyond a reasonable doubt, and that none
17 of the factors set forth in former section 46503(c)(1) of
18 title 49, United States Code, or its predecessor, has been
19 proven by the defendant to exist, by a preponderance of
20 the information. The meaning of the term ‘especially he-
21 nous, cruel, or depraved’, as used in the factor set forth
22 in former section 46503(c)(2)(B)(iv) of title 49, United
23 States Code, or its predecessor, shall be narrowed by add-
24 ing the limiting language ‘in that it involved torture or
25 serious physical abuse to the victim’, and shall be con-



1 strued as when that term is used in section 3592(c)(6)
2 of title 18, United States Code.”.

3 (b) SEVERABILITY CLAUSE.—If any provision of sec-
4 tion 60003(b)(2) of the Violent Crime and Law Enforce-
5 ment Act of 1994 (Public Law 103–322), or the applica-
6 tion thereof to any person or any circumstance is held in-
7 valid, the remainder of such section and the application
8 of such section to other persons or circumstances shall not
9 be affected thereby.

10 **SEC. 212. POSTRELEASE SUPERVISION OF TERRORISTS.**

11 Section 3583(j) of title 18, United States Code, is
12 amended in subsection (j), by striking “, the commission”
13 and all that follows through “person,” .

14 **Subtitle B—Federal Death Penalty**
15 **Procedures**

16 **SEC. 221. ELIMINATION OF PROCEDURES APPLICABLE**
17 **ONLY TO CERTAIN CONTROLLED SUB-**
18 **STANCES ACT CASES.**

19 Section 408 of the Controlled Substances Act (21
20 U.S.C. 848) is amended—

21 (1) in subsection (e)(2), by striking “(1)(b)”
22 and inserting (1)(B);

23 (2) by striking subsection (g) and all that fol-
24 lows through subsection (p);

25 (3) by striking subsection (r); and



1 (4) in subsection (q), by striking paragraphs
2 (1) through (3).

3 **SEC. 222. COUNSEL FOR FINANCIALLY UNABLE DEFEND-**
4 **ANTS.**

5 (a) **IN GENERAL.**—Chapter 228 of title 18, United
6 States Code, is amended by adding at the end the fol-
7 lowing new section:

8 **“§ 3599. Counsel for financially unable defendants**

9 “(a)(1) Notwithstanding any other provision of law
10 to the contrary, in every criminal action in which a defend-
11 ant is charged with a crime which may be punishable by
12 death, a defendant who is or becomes financially unable
13 to obtain adequate representation or investigative, expert,
14 or other reasonably necessary services at any time either—

15 “(A) before judgment; or

16 “(B) after the entry of a judgment imposing a
17 sentence of death but before the execution of that
18 judgment;

19 shall be entitled to the appointment of one or more attor-
20 neys and the furnishing of such other services in accord-
21 ance with subsections (b) through (f).

22 “(2) In any post conviction proceeding under section
23 2254 or 2255 of title 28, United States Code, seeking to
24 vacate or set aside a death sentence, any defendant who
25 is or becomes financially unable to obtain adequate rep-

1 resentation or investigative, expert, or other reasonably
2 necessary services shall be entitled to the appointment of
3 one or more attorneys and the furnishing of such other
4 services in accordance with subsections (b) through (f).

5 “(b) If the appointment is made before judgment, at
6 least one attorney so appointed must have been admitted
7 to practice in the court in which the prosecution is to be
8 tried for less than five years, and must have had not less
9 than three years experience in the actual trial of felony
10 prosecutions in that court.

11 “(c) If the appointment is made after judgment, at
12 least one attorney so appointed must have been admitted
13 to practice in the court of appeals for not less than five
14 years, and must have had not less than three years experi-
15 ence in the handling of appeals in that court in felony
16 cases.

17 “(d) With respect to subsections (b) and (c), the
18 court, for good cause, may appoint another attorney whose
19 background, knowledge, or experience would otherwise en-
20 able him or her to properly represent the defendant, with
21 due consideration to the seriousness of the possible penalty
22 and to the unique and complex nature of the litigation.

23 “(e) Unless replaced by similarly qualified counsel
24 upon the attorney’s own motion or upon motion of the de-
25 fendant, each attorney so appointed shall represent the de-



1 fendant throughout every subsequent stage of available ju-
2 dicial proceedings, including pretrial proceedings, trial,
3 sentencing, motions for new trial, appeals, applications for
4 writ of certiorari to the Supreme Court of the United
5 States, and all available post-conviction process, together
6 with applications for stays of execution and other appro-
7 priate motions and procedures, and shall also represent
8 the defendant in such competency proceedings and pro-
9 ceedings for executive or other clemency as may be avail-
10 able to the defendant.

11 “(f) Upon a finding that investigative, expert, or
12 other services are reasonably necessary for the representa-
13 tion of the defendant, whether in connection with issues
14 relating to guilt or the sentence, the court may authorize
15 the defendant’s attorneys to obtain such services on behalf
16 of the defendant and, if so authorized, shall order the pay-
17 ment of fees and expenses therefor under subsection (g).
18 No ex parte proceeding, communication, or request may
19 be considered pursuant to this section unless a proper
20 showing is made concerning the need for confidentiality.
21 Any such proceeding, communication, or request shall be
22 transcribed and made a part of the record available for
23 appellate review.

24 “(g)(1) Compensation shall be paid to attorneys ap-
25 pointed under this subsection at a rate of not more than

1 \$125 per hour for in-court and out-of-court time. The Ju-
2 dicial Conference is authorized to raise the maximum for
3 hourly payment specified in the paragraph up to the ag-
4 gregate of the overall average percentages of the adjust-
5 ments in the rates of pay for the General Schedule made
6 pursuant to section 5305 of title 5 on or after such date.
7 After the rates are raised under the preceding sentence,
8 such hourly range may be raised at intervals of not less
9 than one year, up to the aggregate of the overall average
10 percentages of such adjustments made since the last raise
11 under this paragraph.

12 “(2) Fees and expenses paid for investigative, expert,
13 and other reasonably necessary services authorized under
14 subsection (f) shall not exceed \$7,500 in any case, unless
15 payment in excess of that limit is certified by the court,
16 or by the United States magistrate judge, if the services
17 were rendered in connection with the case disposed of en-
18 tirely before such magistrate judge, as necessary to pro-
19 vide fair compensation for services of an unusual character
20 or duration, and the amount of the excess payment is ap-
21 proved by the chief judge of the circuit. The chief judge
22 of the circuit may delegate such approval authority to an
23 active circuit judge.



1 “(3) The amounts paid under this paragraph for
2 services in any case shall be disclosed to the public, after
3 the disposition of the petition.”.

4 (b) CONFORMING AMENDMENT.—The table of sec-
5 tions of the bill is amended by inserting after the item
6 relating to section 3598 the following new item:

“3599. Counsel for financially unable defendants.”.

7 (c) REPEAL.—Subsection (q) of section 408 of the
8 Controlled Substances Act is amended by striking para-
9 graphs (4) through (10).

10 **TITLE III—REDUCING CRIME**
11 **AND TERRORISM AT AMER-**
12 **ICA’S SEAPORTS**

13 **SEC. 301. SHORT TITLE.**

14 This title may be cited as the “Reducing Crime and
15 Terrorism at America’s Seaports Act of 2005”.

16 **SEC. 302. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.**

17 (a) IN GENERAL.—Section 1036 of title 18, United
18 States Code, is amended—

19 (1) in subsection (a)—

20 (A) in paragraph (2), by striking “or” at
21 the end;

22 (B) by redesignating paragraph (3) as
23 paragraph (4); and

24 (C) by inserting after paragraph (2) the
25 following:



1 “(3) any secure or restricted area of any sea-
2 port, designated as secure in an approved security
3 plan, as required under section 70103 of title 46,
4 United States Code, and the rules and regulations
5 promulgated under that section; or”;

6 (2) in subsection (b)(1), by striking “5 years”
7 and inserting “10 years”;

8 (3) in subsection (c)(1), by inserting “, captain
9 of the seaport,” after “airport authority”; and

10 (4) by striking the section heading and insert-
11 ing the following:

12 **“§ 1036. Entry by false pretenses to any real property,**
13 **vessel, or aircraft of the United States or**
14 **secure area of any airport or seaport”.**

15 (b) TECHNICAL AND CONFORMING AMENDMENT.—
16 The table of sections for chapter 47 of title 18 is amended
17 by striking the matter relating to section 1036 and insert-
18 ing the following:

 “1036. Entry by false pretenses to any real property, vessel, or aircraft of the
 United States or secure area of any airport or seaport.”.

19 (c) DEFINITION OF SEAPORT.—Chapter 1 of title 18,
20 United States Code, is amended by adding at the end the
21 following:

22 **“§ 26. Definition of seaport**

23 “As used in this title, the term ‘seaport’ means all
24 piers, wharves, docks, and similar structures, adjacent to



1 any waters subject to the jurisdiction of the United States,
2 to which a vessel may be secured, including areas of land,
3 water, or land and water under and in immediate prox-
4 imity to such structures, buildings on or contiguous to
5 such structures, and the equipment and materials on such
6 structures or in such buildings.”.

7 (d) TECHNICAL AND CONFORMING AMENDMENT.—
8 The table of sections for chapter 1 of title 18 is amended
9 by inserting after the matter relating to section 25 the
10 following:

“26. Definition of seaport.”.

11 **SEC. 303. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE**
12 **TO, OBSTRUCTION OF BOARDING, OR PRO-**
13 **VIDING FALSE INFORMATION.**

14 (a) OFFENSE.—Chapter 109 of title 18, United
15 States Code, is amended by adding at the end the fol-
16 lowing:

17 **“§ 2237. Criminal sanctions for failure to heave to, ob-**
18 **struction of boarding, or providing false**
19 **information**

20 “(a)(1) It shall be unlawful for the master, operator,
21 or person in charge of a vessel of the United States, or
22 a vessel subject to the jurisdiction of the United States,
23 to knowingly fail to obey an order by an authorized Fed-
24 eral law enforcement officer to heave to that vessel.

1 “(2) It shall be unlawful for any person on board a
2 vessel of the United States, or a vessel subject to the juris-
3 diction of the United States, to—

4 “(A) forcibly resist, oppose, prevent, impede, in-
5 timidate, or interfere with a boarding or other law
6 enforcement action authorized by any Federal law or
7 to resist a lawful arrest; or

8 “(B) provide materially false information to a
9 Federal law enforcement officer during a boarding of
10 a vessel regarding the vessel's destination, origin,
11 ownership, registration, nationality, cargo, or crew.

12 “(b) Any person who intentionally violates this sec-
13 tion shall be fined under this title or imprisoned for not
14 more than 5 years, or both.

15 “(c) This section does not limit the authority of a
16 customs officer under section 581 of the Tariff Act of
17 1930 (19 U.S.C. 1581), or any other provision of law en-
18 forced or administered by the Secretary of the Treasury
19 or the Secretary of Homeland Security, or the authority
20 of any Federal law enforcement officer under any law of
21 the United States, to order a vessel to stop or heave to.

22 “(d) A foreign nation may consent or waive objection
23 to the enforcement of United States law by the United
24 States under this section by radio, telephone, or similar
25 oral or electronic means. Consent or waiver may be proven



1 by certification of the Secretary of State or the designee
2 of the Secretary of State.

3 “(e) In this section—

4 “(1) the term ‘Federal law enforcement officer’
5 has the meaning given the term in section 115(c);

6 “(2) the term ‘heave to’ means to cause a vessel
7 to slow, come to a stop, or adjust its course or speed
8 to account for the weather conditions and sea state
9 to facilitate a law enforcement boarding;

10 “(3) the term ‘vessel subject to the jurisdiction
11 of the United States’ has the meaning given the
12 term in section 2 of the Maritime Drug Law En-
13 forcement Act (46 U.S.C. App. 1903); and

14 “(4) the term ‘vessel of the United States’ has
15 the meaning given the term in section 2 of the Mari-
16 time Drug Law Enforcement Act (46 U.S.C. App.
17 1903).”.

18 (b) CONFORMING AMENDMENT.—The table of sec-
19 tions for chapter 109, title 18, United States Code, is
20 amended by inserting after the item for section 2236 the
21 following:

“2237. Criminal sanctions for failure to heave to, obstruction of boarding, or
providing false information.”.



1 **SEC. 304. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST**
2 **MARITIME NAVIGATION, PLACEMENT OF DE-**
3 **STRUCTIVE DEVICES.**

4 (a) **PLACEMENT OF DESTRUCTIVE DEVICES.**—Chap-
5 ter 111 of title 18, United States Code, as amended by
6 subsection (a), is further amended by adding at the end
7 the following:

8 **“§ 2282A. Devices or dangerous substances in waters**
9 **of the United States likely to destroy or**
10 **damage ships or to interfere with mari-**
11 **time commerce**

12 “(a) A person who knowingly places, or causes to be
13 placed, in navigable waters of the United States, by any
14 means, a device or dangerous substance which is likely to
15 destroy or cause damage to a vessel or its cargo, cause
16 interference with the safe navigation of vessels, or inter-
17 ference with maritime commerce (such as by damaging or
18 destroying marine terminals, facilities, or any other ma-
19 rine structure or entity used in maritime commerce) with
20 the intent of causing such destruction or damage, inter-
21 ference with the safe navigation of vessels, or interference
22 with maritime commerce shall be fined under this title or
23 imprisoned for any term of years, or for life; or both.

24 “(b) A person who causes the death of any person
25 by engaging in conduct prohibited under subsection (a)
26 may be punished by death.

1 “(c) Nothing in this section shall be construed to
2 apply to otherwise lawfully authorized and conducted ac-
3 tivities of the United States Government.

4 “(d) In this section:

5 “(1) The term ‘dangerous substance’ means
6 any solid, liquid, or gaseous material that has the
7 capacity to cause damage to a vessel or its cargo, or
8 cause interference with the safe navigation of a ves-
9 sel.

10 “(2) The term ‘device’ means any object that,
11 because of its physical, mechanical, structural, or
12 chemical properties, has the capacity to cause dam-
13 age to a vessel or its cargo, or cause interference
14 with the safe navigation of a vessel.”.

15 (2) CONFORMING AMENDMENT.—The table of
16 sections for chapter 111 of title 18, United States
17 Code, as amended by subsection (b), is further
18 amended by adding after the item related to section
19 2282 the following:

“2282A. Devices or dangerous substances in waters of the United States likely
to destroy or damage ships or to interfere with maritime com-
merce.”.

20 (b) VIOLENCE AGAINST MARITIME NAVIGATION.—

21 (1) IN GENERAL.—Chapter 111 of title 18,
22 United States Code as amended by subsections (a)
23 and (c), is further amended by adding at the end the
24 following:

1 **"§ 2282B. Violence against aids to maritime naviga-**
2 **tion**

3 "Whoever intentionally destroys, seriously damages,
4 alters, moves, or tampers with any aid to maritime naviga-
5 tion maintained by the Saint Lawrence Seaway Develop-
6 ment Corporation under the authority of section 4 of the
7 Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard
8 pursuant to section 81 of title 14, United States Code,
9 or lawfully maintained under authority granted by the
10 Coast Guard pursuant to section 83 of title 14, United
11 States Code, if such act endangers or is likely to endanger
12 the safe navigation of a ship, shall be fined under this
13 title or imprisoned for not more than 20 years, or both."

14 (2) CONFORMING AMENDMENT.—The table of
15 sections for chapter 111 of title 18, United States
16 Code, as amended by subsections (b) and (d) is fur-
17 ther amended by adding after the item related to
18 section 2282A the following:

"2282B. Violence against aids to maritime navigation."

19 **SEC. 305. TRANSPORTATION OF DANGEROUS MATERIALS**
20 **AND TERRORISTS.**

21 (a) TRANSPORTATION OF DANGEROUS MATERIALS
22 AND TERRORISTS.—Chapter 111 of title 18, as amended
23 by section 305, is further amended by adding at the end
24 the following:



1 **“§ 2283. Transportation of explosive, biological, chem-**
2 **ical, or radioactive or nuclear materials**

3 “(a) IN GENERAL.—Whoever knowingly transports
4 aboard any vessel within the United States and on waters
5 subject to the jurisdiction of the United States or any ves-
6 sel outside the United States and on the high seas or hav-
7 ing United States nationality an explosive or incendiary
8 device, biological agent, chemical weapon, or radioactive
9 or nuclear material, knowing that any such item is in-
10 tended to be used to commit an offense listed under sec-
11 tion 2332b(g)(5)(B), shall be fined under this title or im-
12 prisoned for any term of years or for life, or both.

13 “(b) CAUSING DEATH.—Any person who causes the
14 death of a person by engaging in conduct prohibited by
15 subsection (a) may be punished by death.

16 “(c) DEFINITIONS.—In this section:

17 “(1) BIOLOGICAL AGENT.—The term ‘biological
18 agent’ means any biological agent, toxin, or vector
19 (as those terms are defined in section 178).

20 “(2) BY-PRODUCT MATERIAL.—The term ‘by-
21 product material’ has the meaning given that term
22 in section 11(e) of the Atomic Energy Act of 1954
23 (42 U.S.C. 2014(e)).

24 “(3) CHEMICAL WEAPON.—The term ‘chemical
25 weapon’ has the meaning given that term in section
26 229F(1).

1 “(4) EXPLOSIVE OR INCENDIARY DEVICE.—The
2 term ‘explosive or incendiary device’ has the mean-
3 ing given the term in section 232(5) and includes ex-
4 plosive materials, as that term is defined in section
5 841(c) and explosive as defined in section 844(j).

6 “(5) NUCLEAR MATERIAL.—The term ‘nuclear
7 material’ has the meaning given that term in section
8 831(f)(1).

9 “(6) RADIOACTIVE MATERIAL.—The term ‘ra-
10 dioactive material’ means—

11 “(A) source material and special nuclear
12 material, but does not include natural or de-
13 pleted uranium;

14 “(B) nuclear by-product material;

15 “(C) material made radioactive by bom-
16 bardment in an accelerator; or

17 “(D) all refined isotopes of radium.

18 “(8) SOURCE MATERIAL.—The term ‘source
19 material’ has the meaning given that term in section
20 11(z) of the Atomic Energy Act of 1954 (42 U.S.C.
21 2014(z)).

22 “(9) SPECIAL NUCLEAR MATERIAL.—The term
23 ‘special nuclear material’ has the meaning given that
24 term in section 11(aa) of the Atomic Energy Act of
25 1954 (42 U.S.C. 2014(aa)).



1 **“§ 2284. Transportation of terrorists**

2 “(a) IN GENERAL.—Whoever knowingly and inten-
3 tionally transports any terrorist aboard any vessel within
4 the United States and on waters subject to the jurisdiction
5 of the United States or any vessel outside the United
6 States and on the high seas or having United States na-
7 tionality, knowing that the transported person is a ter-
8 rorist, shall be fined under this title or imprisoned for any
9 term of years or for life, or both.

10 “(b) DEFINED TERM.—In this section, the term ‘ter-
11 rorist’ means any person who intends to commit, or is
12 avoiding apprehension after having committed, an offense
13 listed under section 2332b(g)(5)(B).”.

14 (b) CONFORMING AMENDMENT.—The table of sec-
15 tions for chapter 111 of title 18, United States Code, as
16 amended by section 305, is further amended by adding
17 at the end the following:

“2283. Transportation of explosive, chemical, biological, or radioactive or nu-
clear materials.

“2284. Transportation of terrorists.”.

18 **SEC. 306. DESTRUCTION OF, OR INTERFERENCE WITH, VES-**
19 **SELS OR MARITIME FACILITIES.**

20 (a) IN GENERAL.—Title 18, United States Code, is
21 amended by inserting after chapter 111 the following:



1 **"CHAPTER 111A—DESTRUCTION OF, OR**
2 **INTERFERENCE WITH, VESSELS OR**
3 **MARITIME FACILITIES**

"Sec.

"2290. Jurisdiction and scope.

"2291. Destruction of vessel or maritime facility.

"2292. Imparting or conveying false information.

4 **"§ 2290. Jurisdiction and scope**

5 "(a) JURISDICTION.—There is jurisdiction, including
6 extraterritorial jurisdiction, over an offense under this
7 chapter if the prohibited activity takes place—

8 "(1) within the United States and within waters
9 subject to the jurisdiction of the United States; or

10 "(2) outside United States and—

11 "(A) an offender or a victim is a national
12 of the United States (as that term is defined
13 under section 101(a)(22) of the Immigration
14 and Nationality Act (8 U.S.C. 1101(a)(22));

15 "(B) the activity involves a vessel in which
16 a national of the United States was on board;
17 or

18 "(C) the activity involves a vessel of the
19 United States (as that term is defined under
20 section 2 of the Maritime Drug Law Enforce-
21 ment Act (46 U.S.C. App. 1903).



1 “(b) SCOPE.—Nothing in this chapter shall apply to
2 otherwise lawful activities carried out by or at the direc-
3 tion of the United States Government.

4 **“§ 2291. Destruction of vessel or maritime facility**

5 “(a) OFFENSE.—Whoever knowingly—

6 “(1) sets fire to, damages, destroys, disables, or
7 wrecks any vessel;

8 “(2) places or causes to be placed a destructive
9 device, as defined in section 921(a)(4), destructive
10 substance, as defined in section 31(a)(3), or an ex-
11 plosive, as defined in section 844(j) in, upon, or
12 near, or otherwise makes or causes to be made un-
13 workable or unusable or hazardous to work or use,
14 any vessel, or any part or other materials used or in-
15 tended to be used in connection with the operation
16 of a vessel;

17 “(3) sets fire to, damages, destroys, or disables
18 or places a destructive device or substance in, upon,
19 or near, any maritime facility, including any aid to
20 navigation, lock, canal, or vessel traffic service facil-
21 ity or equipment;

22 “(4) interferes by force or violence with the op-
23 eration of any maritime facility, including any aid to
24 navigation, lock, canal, or vessel traffic service facil-



1 ity or equipment, if such action is likely to endanger
2 the safety of any vessel in navigation;

3 “(5) sets fire to, damages, destroys, or disables
4 or places a destructive device or substance in, upon,
5 or near, any appliance, structure, property, machine,
6 or apparatus, or any facility or other material used,
7 or intended to be used, in connection with the oper-
8 ation, maintenance, loading, unloading, or storage of
9 any vessel or any passenger or cargo carried or in-
10 tended to be carried on any vessel;

11 “(6) performs an act of violence against or in-
12 capacitates any individual on any vessel, if such act
13 of violence or incapacitation is likely to endanger the
14 safety of the vessel or those on board;

15 “(7) performs an act of violence against a per-
16 son that causes or is likely to cause serious bodily
17 injury, as defined in section 1365(h)(3), in, upon, or
18 near, any appliance, structure, property, machine, or
19 apparatus, or any facility or other material used, or
20 intended to be used, in connection with the oper-
21 ation, maintenance, loading, unloading, or storage of
22 any vessel or any passenger or cargo carried or in-
23 tended to be carried on any vessel;

24 “(8) communicates information, knowing the
25 information to be false and under circumstances in



1 which such information may reasonably be believed,
2 thereby endangering the safety of any vessel in navi-
3 gation; or

4 “(9) attempts or conspires to do anything pro-
5 hibited under paragraphs (1) through (8),
6 shall be fined under this title or imprisoned not more than
7 20 years, or both.

8 “(b) LIMITATION.—Subsection (a) shall not apply to
9 any person that is engaging in otherwise lawful activity,
10 such as normal repair and salvage activities, and the
11 transportation of hazardous materials regulated and al-
12 lowed to be transported under chapter 51 of title 49.

13 “(c) PENALTY.—Whoever is fined or imprisoned
14 under subsection (a) as a result of an act involving a vessel
15 that, at the time of the violation, carried high-level radio-
16 active waste (as that term is defined in section 2(12) of
17 the Nuclear Waste Policy Act of 1982 (42 U.S.C.
18 10101(12)) or spent nuclear fuel (as that term is defined
19 in section 2(23) of the Nuclear Waste Policy Act of 1982
20 (42 U.S.C. 10101(23)), shall be fined under this title, im-
21 prisoned for a term up to life, or both.

22 “(d) PENALTY WHEN DEATH RESULTS.—Whoever is
23 convicted of any crime prohibited by subsection (a) and
24 intended to cause death by the prohibited conduct, if the
25 conduct resulted in the death of any person, shall be sub-



1 ject also to the death penalty or to a term of imprisonment
2 for a period up to life.

3 “(e) THREATS.—Whoever knowingly and inten-
4 tionally imparts or conveys any threat to do an act which
5 would violate this chapter, with an apparent determination
6 and will to carry the threat into execution, shall be fined
7 under this title or imprisoned not more than 5 years, or
8 both, and is liable for all costs incurred as a result of such
9 threat.

10 **“§ 2292. Imparting or conveying false information**

11 “(a) IN GENERAL.—Whoever imparts or conveys or
12 causes to be imparted or conveyed false information,
13 knowing the information to be false, concerning an at-
14 tempt or alleged attempt being made or to be made, to
15 do any act that would be a crime prohibited by this chap-
16 ter or by chapter 111 of this title, shall be subject to a
17 civil penalty of not more than \$5,000, which shall be re-
18 coverable in a civil action brought in the name of the
19 United States.

20 “(b) MALICIOUS CONDUCT.—Whoever knowingly, in-
21 tentiously, maliciously, or with reckless disregard for the
22 safety of human life, imparts or conveys or causes to be
23 imparted or conveyed false information, knowing the infor-
24 mation to be false, concerning an attempt or alleged at-
25 tempt to do any act which would be a crime prohibited



1 by this chapter or by chapter 111 of this title, shall be
2 fined under this title or imprisoned not more than 5 years.

3 “(c) JURISDICTION.—

4 “(1) IN GENERAL.—Except as provided under
5 paragraph (2), section 2290(a) shall not apply to
6 any offense under this section.

7 “(2) JURISDICTION.—Jurisdiction over an of-
8 fense under this section shall be determined in ac-
9 cordance with the provisions applicable to the crime
10 prohibited by this chapter, or by chapter 111 of this
11 title, to which the imparted or conveyed false infor-
12 mation relates, as applicable.

13 **“§ 2293. Bar to prosecution**

14 “(a) IN GENERAL.—It is a bar to prosecution under
15 this chapter if—

16 “(1) the conduct in question occurred within
17 the United States in relation to a labor dispute, and
18 such conduct is prohibited as a felony under the law
19 of the State in which it was committed; or

20 “(2) such conduct is prohibited as a mis-
21 demeanor, and not as a felony, under the law of the
22 State in which it was committed.

23 “(b) DEFINITIONS.—In this section:

24 “(1) LABOR DISPUTE.—The term ‘labor dis-
25 pute’ has the same meaning given that term in sec-



tion 13(c) of the Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes (29 U.S.C. 113(c), commonly known as the Norris-LaGuardia Act).

“(2) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”.

(b) CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

“111A. Destruction of, or interference with, vessels or maritime facilities 2290”.

SEC. 307. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS
OR VESSELS.

(a) THEFT OF INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting “trailer,” after
“motortruck,”;

(B) by inserting “air cargo container,”
after “aircraft,”; and



1 (C) by inserting “, or from any intermodal
2 container, trailer, container freight station,
3 warehouse, or freight consolidation facility,”
4 after “air navigation facility”;

5 (2) in the fifth undesignated paragraph, by
6 striking “in each case” and all that follows through
7 “or both” the second place it appears and inserting
8 “be fined under this title or imprisoned not more
9 than 10 years, or both, but if the amount or value
10 of such money, baggage, goods, or chattels is less
11 than \$1,000, shall be fined under this title or im-
12 prisoned for not more than 3 years, or both”; and

13 (3) by inserting after the first sentence in the
14 eighth undesignated paragraph the following: “For
15 purposes of this section, goods and chattel shall be
16 construed to be moving as an interstate or foreign
17 shipment at all points between the point of origin
18 and the final destination (as evidenced by the waybill
19 or other shipping document of the shipment), re-
20 gardless of any temporary stop while awaiting trans-
21 shipment or otherwise.”.

22 (b) STOLEN VESSELS.—

23 (1) IN GENERAL.—Section 2311 of title 18,
24 United States Code, is amended by adding at the
25 end the following, as a new undesignated paragraph:



1 “‘Vessel’ means any watercraft or other contrivance
2 used or designed for transportation or navigation on,
3 under, or immediately above, water.”.

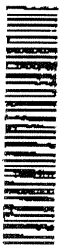
4 (2) TRANSPORTATION AND SALE OF STOLEN
5 VESSELS.—

6 (A) TRANSPORTATION.—Section 2312 of
7 title 18, United States Code, is amended by
8 striking “motor vehicle or aircraft” and insert-
9 ing “motor vehicle, vessel, or aircraft”.

10 (B) SALE.—Section 2313(a) of title 18,
11 United States Code, is amended by striking
12 “motor vehicle or aircraft” and inserting
13 “motor vehicle, vessel, or aircraft”.

14 (c) REVIEW OF SENTENCING GUIDELINES.—Pursu-
15 ant to section 994 of title 28, United States Code, the
16 United States Sentencing Commission shall review the
17 Federal Sentencing Guidelines to determine whether sen-
18 tencing enhancement is appropriate for any offense under
19 section 659 or 2311 of title 18, United States Code, as
20 amended by this title.

21 (d) ANNUAL REPORT OF LAW ENFORCEMENT AC-
22 TIVITIES.—The Attorney General shall annually submit to
23 Congress a report, which shall include an evaluation of
24 law enforcement activities relating to the investigation and



1 prosecution of offenses under section 659 of title 18,
2 United States Code, as amended by this title.

3 (e) REPORTING OF CARGO THEFT.—The Attorney
4 General shall take the steps necessary to ensure that re-
5 ports of cargo theft collected by Federal, State, and local
6 officials are reflected as a separate category in the Uni-
7 form Crime Reporting System, or any successor system,
8 by no later than December 31, 2006.

9 **SEC. 308. STOWAWAYS ON VESSELS OR AIRCRAFT.**

10 Section 2199 of title 18, United States Code, is
11 amended by striking “Shall be fined under this title or
12 imprisoned not more than one year, or both.” and insert-
13 ing the following:

14 “(1) shall be fined under this title, imprisoned
15 not more than 5 years, or both;

16 “(2) if the person commits an act proscribed by
17 this section, with the intent to commit serious bodily
18 injury, and serious bodily injury occurs (as defined
19 under section 1365, including any conduct that, if
20 the conduct occurred in the special maritime and
21 territorial jurisdiction of the United States, would
22 violate section 2241 or 2242) to any person other
23 than a participant as a result of a violation of this
24 section, shall be fined under this title or imprisoned
25 not more than 20 years, or both; and



1 “(3) if an individual commits an act proscribed
2 by this section, with the intent to cause death, and
3 if the death of any person other than a participant
4 occurs as a result of a violation of this section, shall
5 be fined under this title, imprisoned for any number
6 of years or for life, or both.”.

7 **SEC. 309. BRIBERY AFFECTING PORT SECURITY.**

8 (a) IN GENERAL.—Chapter 11 of title 18, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

11 **“§ 226. Bribery affecting port security**

12 “(a) IN GENERAL.—Whoever knowingly—

13 “(1) directly or indirectly, corruptly gives, of-
14 fers, or promises anything of value to any public or
15 private person, with intent to commit international
16 terrorism or domestic terrorism (as those terms are
17 defined under section 2331), to—

18 “(A) influence any action or any person to
19 commit or aid in committing, or collude in, or
20 allow, any fraud, or make opportunity for the
21 commission of any fraud affecting any secure or
22 restricted area or seaport; or

23 “(B) induce any official or person to do or
24 omit to do any act in violation of the lawful



1 duty of such official or person that affects any
2 secure or restricted area or seaport; or

3 “(2) directly or indirectly, corruptly demands,
4 seeks, receives, accepts, or agrees to receive or ac-
5 cept anything of value personally or for any other
6 person or entity in return for—

7 “(A) being influenced in the performance
8 of any official act affecting any secure or re-
9 stricted area or seaport; and

10 “(B) knowing that such influence will be
11 used to commit, or plan to commit, inter-
12 national or domestic terrorism,

13 shall be fined under this title or imprisoned not more than
14 15 years, or both.

15 “(b) DEFINITION.—In this section, the term ‘secure
16 or restricted area’ means an area of a vessel or facility
17 designated as secure in an approved security plan, as re-
18 quired under section 70103 of title 46, United States
19 Code, and the rules and regulations promulgated under
20 that section.”.

21 (b) CONFORMING AMENDMENT.—The table of sec-
22 tions for chapter 11 of title 18, United States Code, is
23 amended by adding at the end the following:

“226. Bribery affecting port security.”.

1 SEC. 310. PENALTIES FOR SMUGGLING GOODS INTO THE
2 UNITED STATES.

3 The third undesignated paragraph of section 545 of
4 title 18, United States Code, is amended by striking "5
5 years" and inserting "20 years".

6 SEC. 311. SMUGGLING GOODS FROM THE UNITED STATES.

7 (a) IN GENERAL.—Chapter 27 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 "§ 554. Smuggling goods from the United States

11 "(a) IN GENERAL.—Whoever fraudulently or know-
12 ingly exports or sends from the United States, or attempts
13 to export or send from the United States, any merchan-
14 dise, article, or object contrary to any law or regulation
15 of the United States, or receives, conceals, buys, sells, or
16 in any manner facilitates the transportation, concealment,
17 or sale of such merchandise, article or object, prior to ex-
18 portation, knowing the same to be intended for expor-
19 tation contrary to any law or regulation of the United
20 States, shall be fined under this title, imprisoned not more
21 than 10 years, or both.

22 "(b) DEFINITION.—In this section, the term 'United
23 States' has the meaning given that term in section 545."



1 (b) CONFORMING AMENDMENT.—The chapter anal-
2 ysis for chapter 27 of title 18, United States Code, is
3 amended by adding at the end the following:

“554. Smuggling goods from the United States.”.

4 (c) SPECIFIED UNLAWFUL ACTIVITY.—Section
5 1956(c)(7)(D) of title 18, United States Code, is amended
6 by inserting “section 554 (relating to smuggling goods
7 from the United States),” before “section 641 (relating
8 to public money, property, or records),”.

9 (d) TARIFF ACT OF 1990.—Section 596 of the Tariff
10 Act of 1930 (19 U.S.C. 1595a) is amended by adding at
11 the end the following:

12 “(d) Merchandise exported or sent from the United
13 States or attempted to be exported or sent from the
14 United States contrary to law, or the proceeds or value
15 thereof, and property used to facilitate the exporting or
16 sending of such merchandise, the attempted exporting or
17 sending of such merchandise, or the receipt, purchase,
18 transportation, concealment, or sale of such merchandise
19 prior to exportation shall be seized and forfeited to the
20 United States.”.

21 (e) REMOVING GOODS FROM CUSTOMS CUSTODY.—
22 Section 549 of title 18, United States Code, is amended
23 in the 5th paragraph by striking “two years” and insert-
24 ing “10 years”.



**TITLE IV—COMBATING
TERRORISM FINANCING**

SEC. 401. SHORT TITLE.

This title may be cited as the “Combating Terrorism Financing Act of 2005”.

SEC. 402. INCREASED PENALTIES FOR TERRORISM FINANCING.

Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended—

(1) in subsection (a), by deleting “\$10,000” and inserting “\$50,000”.

(2) in subsection (b), by deleting “ten years” and inserting “twenty years”.

SEC. 403. TERRORISM-RELATED SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.

(a) AMENDMENTS TO RICO.—Section 1961(1) of title 18, United States Code, is amended in subparagraph (B), by inserting “section 1960 (relating to illegal money transmitters),” before “sections 2251”.

(b) AMENDMENTS TO SECTION 1956(c)(7).—Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting “, or section 2339C (relating to financing of terrorism)” before “of this title”; and



1 (2) striking "or any felony violation of the For-
2 eign Corrupt Practices Act" and inserting "any fel-
3 ony violation of the Foreign Corrupt Practices Act".

4 (c) CONFORMING AMENDMENTS TO SECTIONS
5 1956(e) AND 1957(e).—

6 (1) Section 1956(e) of title 18, United States
7 Code, is amended to read as follows:

8 "(e) Violations of this section may be investigated by
9 such components of the Department of Justice as the At-
10 torney General may direct, and by such components of the
11 Department of the Treasury as the Secretary of the Treas-
12 ury may direct, as appropriate, and, with respect to of-
13 fenses over which the Department of Homeland Security
14 has jurisdiction, by such components of the Department
15 of Homeland Security as the Secretary of Homeland Secu-
16 rity may direct, and, with respect to offenses over which
17 the United States Postal Service has jurisdiction, by the
18 Postal Service. Such authority of the Secretary of the
19 Treasury, the Secretary of Homeland Security, and the
20 Postal Service shall be exercised in accordance with an
21 agreement which shall be entered into by the Secretary
22 of the Treasury, the Secretary of Homeland Security, the
23 Postal Service, and the Attorney General. Violations of
24 this section involving offenses described in paragraph
25 (c)(7)(E) may be investigated by such components of the



1 Department of Justice as the Attorney General may di-
2 rect, and the National Enforcement Investigations Center
3 of the Environmental Protection Agency.”.

4 (2) Section 1957(e) of title 18, United States
5 Code, is amended to read as follows:

6 “(e) Violations of this section may be investigated by
7 such components of the Department of Justice as the At-
8 torney General may direct, and by such components of the
9 Department of the Treasury as the Secretary of the Treas-
10 ury may direct, as appropriate, and, with respect to of-
11 fenses over which the Department of Homeland Security
12 has jurisdiction, by such components of the Department
13 of Homeland Security as the Secretary of Homeland Secu-
14 rity may direct, and, with respect to offenses over which
15 the United States Postal Service has jurisdiction, by the
16 Postal Service. Such authority of the Secretary of the
17 Treasury, the Secretary of Homeland Security, and the
18 Postal Service shall be exercised in accordance with an
19 agreement which shall be entered into by the Secretary
20 of the Treasury, the Secretary of Homeland Security, the
21 Postal Service, and the Attorney General.”.



1 SEC. 404. ASSETS OF PERSONS COMMITTING TERRORIST
2 ACTS AGAINST FOREIGN COUNTRIES OR
3 INTERNATIONAL ORGANIZATIONS.

4 Section 981(a)(1)(G) of title 18, United States Code,
5 is amended—

6 (1) by striking “or” at the end of clause (ii);

7 (2) by striking the period at the end of clause

8 (iii) and inserting “; or”; and

9 (3) by inserting the following after clause (iii):

10 “(iv) of any individual, entity, or or-
11 ganization engaged in planning or perpe-
12 trating any act of international terrorism
13 (as defined in section 2331) against any
14 international organization (as defined in
15 section 209 of the State Department Basic
16 Authorities Act of 1956 (22 U.S.C.
17 4309(b)) or against any foreign Govern-
18 ment. Where the property sought for for-
19 feiture is located beyond the territorial
20 boundaries of the United States, an act in
21 furtherance of such planning or perpetra-
22 tion must have occurred within the juris-
23 diction of the United States.”.

24 SEC. 405. MONEY LAUNDERING THROUGH HAWALAS.

25 Section 1956(a)(1) of title 18, United States Code,
26 is amended by adding at the end the following: “For pur-



1 poses of this paragraph, a financial transaction shall be
2 considered to be one involving the proceeds of specified
3 unlawful activity if it is part of a set of parallel or depend-
4 ent transactions, any one of which involves the proceeds
5 of specified unlawful activity, and all of which are part
6 of a single plan or arrangement.”.

7 **SEC. 406. TECHNICAL AND CONFORMING AMENDMENTS RE-**
8 **LATING TO THE USA PATRIOT ACT.**

9 (a) **TECHNICAL CORRECTIONS.—**

10 (1) Section 322 of Public Law 107-56 is
11 amended by striking “title 18” and inserting “title
12 28”.

13 (2) Section 1956(b)(3) and (4) of title 18,
14 United States Code, are amended by striking “de-
15 scribed in paragraph (2)” each time it appears; and

16 (3) Section 981(k) of title 18, United States
17 Code, is amended by striking “foreign bank” each
18 time it appears and inserting “foreign financial in-
19 stitution (as defined in section 984(c)(2)(A) of this
20 title)”.

21 (b) **CODIFICATION OF SECTION 316 OF THE USA**
22 **PATRIOT ACT.—**

23 (1) Chapter 46 of title 18, United States Code,
24 is amended—



1 (A) in the chapter analysis, by inserting at
2 the end the following:

"987. Anti-terrorist forfeiture protection."

3 ; and

4 (B) by inserting at the end the following:

5 **"§ 987. Anti-terrorist forfeiture protection**

6 "(a) RIGHT TO CONTEST.—An owner of property
7 that is confiscated under any provision of law relating to
8 the confiscation of assets of suspected international terror-
9 ists, may contest that confiscation by filing a claim in the
10 manner set forth in the Federal Rules of Civil Procedure
11 (Supplemental Rules for Certain Admiralty and Maritime
12 Claims), and asserting as an affirmative defense that—

13 "(1) the property is not subject to confiscation
14 under such provision of law; or

15 "(2) the innocent owner provisions of section
16 983(d) of title 18, United States Code, apply to the
17 case.

18 "(b) EVIDENCE.—In considering a claim filed under
19 this section, a court may admit evidence that is otherwise
20 inadmissible under the Federal Rules of Evidence, if the
21 court determines that the evidence is reliable, and that
22 compliance with the Federal Rules of Evidence may jeop-
23 ardize the national security interests of the United States.

24 "(c) CLARIFICATIONS.—



1 “(1) PROTECTION OF RIGHTS.—The exclusion
2 of certain provisions of Federal law from the defini-
3 tion of the term ‘civil forfeiture statute’ in section
4 983(i) of title 18, United States Code, shall not be
5 construed to deny an owner of property the right to
6 contest the confiscation of assets of suspected inter-
7 national terrorists under—

8 “(A) subsection (a) of this section;

9 “(B) the Constitution; or

10 “(C) subchapter II of chapter 5 of title 5,
11 United States Code (commonly known as the
12 ‘Administrative Procedure Act’).

13 “(2) SAVINGS CLAUSE.—Nothing in this section
14 shall limit or otherwise affect any other remedies
15 that may be available to an owner of property under
16 section 983 of title 18, United States Code, or any
17 other provision of law.”.

18 (2) Subsections (a), (b), and (c) of section 316
19 of Public Law 107–56 are repealed.

20 (c) CONFORMING AMENDMENTS CONCERNING CON-
21 SPIRACIES.—

22 (1) Section 33(a) of title 18, United States
23 Code is amended by inserting “or conspires” before
24 “to do any of the aforesaid acts”.



1 (2) Section 1366(a) of title 18, United States
2 Code, is amended—

3 (A) by striking “attempts” each time it ap-
4 pears and inserting “attempts or conspires”;
5 and

6 (B) by inserting “, or if the object of the
7 conspiracy had been achieved,” after “the at-
8 tempted offense had been completed”.

9 **SEC. 407. CROSS REFERENCE CORRECTION.**

10 Section 5318(n)(4)(A) of title 31, United States
11 Code, is amended by striking “National Intelligence Re-
12 form Act of 2004” and inserting “Intelligence Reform and
13 Terrorism Prevention Act of 2004”.

14 **SEC. 408. AMENDMENT TO AMENDATORY LANGUAGE.**

15 Section 6604 of the Intelligence Reform and Ter-
16 rorism Prevention Act of 2004 is amended (effective on
17 the date of the enactment of that Act)—

18 (1) by striking “Section 2339c(c)(2)” and in-
19 serting “Section 2339C(c)(2)”; and

20 (2) by striking “Section 2339c(e)” and insert-
21 ing “Section 2339C(e)”.

22 **SEC. 409. DESIGNATION OF ADDITIONAL MONEY LAUN-**
23 **DERING PREDICATE.**

24 Section 1956(c)(7)(D) of title 18, United States
25 Code, is amended—



1 (1) by inserting “, section 2339C (relating to fi-
2 nancing of terrorism), or section 2339D (relating to
3 receiving military-type training from a foreign ter-
4 rorist organization)” after “section 2339A or 2339B
5 (relating to providing material support to terror-
6 ists)”; and

7 (2) by striking “or” before “section 2339A or
8 2339B”.

9 **SEC. 410. UNIFORM PROCEDURES FOR CRIMINAL FOR-**
10 **FEITURE.**

11 Section 2461(c) of title 28, United States Code, is
12 amended to read as follows:

13 “(c) If a person is charged in a criminal case with
14 a violation of an Act of Congress for which the civil or
15 criminal forfeiture of property is authorized, the Govern-
16 ment may include notice of the forfeiture in the indictment
17 or information pursuant to the Federal Rules of Criminal
18 Procedure. If the defendant is convicted of the offense giv-
19 ing rise to the forfeiture, the court shall order the for-
20 feiture of the property as part of the sentence in the crimi-
21 nal case pursuant to to the Federal Rules of Criminal Pro-
22 cedure and section 3554 of title 18, United States Code.
23 The procedures in section 413 of the Controlled Sub-
24 stances Act (21 U.S.C. 853) apply to all stages of a crimi-
25 nal forfeiture proceeding, except that subsection (d) of



1 such section applies only in cases in which the defendant
2 is convicted of a violation of such Act.””.

3 **TITLE V—MISCELLANEOUS**
4 **PROVISIONS**

5 **SEC. 501. RESIDENCE OF UNITED STATES ATTORNEYS AND**
6 **ASSISTANT UNITED STATES ATTORNEYS.**

7 (a) **IN GENERAL.**—Subsection (a) of section 545 of
8 title 28, United States Code, is amended by adding at the
9 end the following new sentence: “Pursuant to an order
10 from the Attorney General or his designee, a United
11 States attorney or an assistant United States attorney
12 may be assigned dual or additional responsibilities that ex-
13 empt such officer from the residency requirement in this
14 subsection for a specific period as established by the order
15 and subject to renewal.”.

16 (b) **EFFECTIVE DATE.**—The amendment made by
17 subsection (a) shall take effect as of February 1, 2005.

18 **SEC. 502. INTERIM APPOINTMENT OF UNITED STATES AT-**
19 **TORNEYS.**

20 Section 546 of title 28, United States Code, is
21 amended by striking subsections (c) and (d) and inserting
22 the following new subsection:

23 “(c) A person appointed as United States attorney
24 under this section may serve until the qualification of a



1 United States Attorney for such district appointed by the
2 President under section 541 of this title. ”.

3 **SEC. 503. SECRETARY OF HOMELAND SECURITY IN PRESI-**
4 **DENTIAL LINE OF SUCCESSION.**

5 Section 19(d)(1) of title 3, United States Code, is
6 amended by inserting “, Secretary of Homeland Security”
7 after “Secretary of Veterans Affairs”.

8 **SEC. 504. BUREAU OF ALCOHOL, TOBACCO AND FIREARMS**
9 **TO THE DEPARTMENT OF JUSTICE.**

10 The second sentence of section 1111(a)(2) of the
11 Homeland Security Act of 2002 (6 U.S.C. 531(a)(2)) is
12 amended by striking “Attorney General” the first place
13 it appears and inserting “President, by and with the ad-
14 vice and consent of the Senate”.

15 **SEC. 505. QUALIFICATIONS OF UNITED STATES MARSHALS.**

16 Section 561 of title 28, United States Code, is
17 amended by adding at the end the following new sub-
18 section:

19 “(i) Each marshal appointed under this section
20 should have—

21 “(1) a minimum of 4 years of command-level
22 law enforcement management duties, including per-
23 sonnel, budget, and accountable property issues, in
24 a police department, sheriff’s office or Federal law
25 enforcement agency;



1 “(2) experience in coordinating with other law
2 enforcement agencies, particularly at the State and
3 local level;

4 “(3) college-level academic experience; and

5 “(4) experience in or with county, State, and
6 Federal court systems or experience with protection
7 of court personnel, jurors, and witnesses.”.

8 **SECTION 506. DEPARTMENT OF JUSTICE INTELLIGENCE**
9 **MATTERS.**

10 (a) ASSISTANT ATTORNEY GENERAL FOR NATIONAL
11 SECURITY.—

12 (1) IN GENERAL.—Chapter 31 of title 28,
13 United States Code, is amended by inserting after
14 section 507 the following new section:

15 **“§ 507A. Assistant Attorney General for National Se-**
16 **curity**

17 “(a) Of the Assistant Attorneys General appointed
18 under section 506, one shall serve, upon the designation
19 of the President, as the Assistant Attorney General for
20 National Security.

21 “(b) The Assistant Attorney General for National Se-
22 curity shall—

23 “(1) serve as the head of the National Security
24 Division of the Department of Justice under section
25 509A of this title;



1 “(2) serve as primary liaison to the Director of
2 National Intelligence for the Department of Justice;
3 and

4 “(3) perform such other duties as the Attorney
5 General may prescribe.”.

6 (2) ADDITIONAL ASSISTANT ATTORNEY GEN-
7 ERAL.—Section 506 of title 28, United States Code,
8 is amended by striking “ten” and inserting “11”.

9 (3) EXECUTIVE SCHEDULE MATTERS.—Section
10 5315 of title 5, United States Code, is amended by
11 striking the matter relating to Assistant Attorneys
12 General and inserting the following:

13 “ Assistant Attorneys General (11).”.

14 (4) CONSULTATION OF DIRECTOR OF NATIONAL
15 INTELLIGENCE IN APPOINTMENT.—Section
16 106(c)(2) of the National Security Act of 1947 (50
17 U.S.C. 403–6(c)(2)) is amended by adding at the
18 end the following new subparagraph:

19 “(C) The Assistant Attorney General des-
20 ignated as the Assistant Attorney General for Na-
21 tional Security under section 507A of title 28,
22 United States Code.”.

23 (5) AUTHORITY TO ACT FOR ATTORNEY GEN-
24 ERAL UNDER FOREIGN INTELLIGENCE SURVEIL-
25 LANCE ACT OF 1978.—Section 101(g) of the Foreign



1 Intelligence Surveillance Act of 1978 (50 U.S.C.
2 1801(g)) is amended by striking “or the Deputy At-
3 torney General” and inserting “, the Deputy Attor-
4 ney General, or, upon the designation of the Attor-
5 ney General, the Assistant Attorney General des-
6 ignated as the Assistant Attorney General for Na-
7 tional Security under section 507A of title 28,
8 United States Code”.

9 (6) AUTHORIZATION FOR INTERCEPTION OF
10 COMMUNICATIONS.—Section 2516(1) of title 18,
11 United States Code, is amended by inserting “or
12 National Security Division” after “the Criminal Di-
13 vision”.

14 (7) AUTHORITY TO ACT FOR ATTORNEY GEN-
15 ERAL IN MATTERS INVOLVING WITNESS RELOCATION
16 OR PROTECTION.—Section 3521(d)(3) of title 18,
17 United States Code, is amended by striking “to the
18 Assistant Attorney General in charge of the Crimi-
19 nal Division of the Department of Justice” and in-
20 serting “to any Assistant Attorney General in charge
21 of the Criminal Division or National Security Divi-
22 sion of the Department of Justice”.

23 (8) PROSECUTION OF CASES INVOLVING CLASSI-
24 FIED INFORMATION.—Section 9A(a) of the Classi-
25 fied Information Procedures Act (18 U.S.C. App.) is



1 amended by inserting "or the Assistant Attorney
2 General for National Security, as appropriate," after
3 "Assistant Attorney General for the Criminal Divi-
4 sion".

5 (9) INTELLIGENCE AND NATIONAL SECURITY
6 ASPECTS OF ESPIONAGE PROSECUTION.—Section
7 341(b) of the Intelligence Authorization Act for Fis-
8 cal Year 2004 (28 U.S.C. 519 note) is amended by
9 striking "acting through the Office of Intelligence
10 Policy and Review of the Department of Justice"
11 and inserting "acting through the Assistant Attor-
12 ney General for National Security".

13 (10) CERTIFICATIONS FOR CERTAIN UNDER-
14 COVER FOREIGN INTELLIGENCE AND COUNTER-
15 INTELLIGENCE INVESTIGATIVE OPERATIONS.—Sec-
16 tion 102(b)(1) of Public Law 102-395 (28 U.S.C.
17 533 note) is amended by striking "Counsel for Intel-
18 ligence Policy" and inserting "Assistant Attorney
19 General for National Security".

20 (11) INCLUSION IN FEDERAL LAW ENFORCE-
21 MENT COMMUNITY FOR EMERGENCY FEDERAL LAW
22 ENFORCEMENTS ASSISTANCE PURPOSES.—Section
23 609N(2) of the Justice Assistance Act of 1984 (42
24 U.S.C. 10502(2)) is amended—



1 (A) by redesignating subparagraphs (L)
2 and (M) as subparagraphs (M) and (N), respec-
3 tively; and

4 (B) by inserting after subparagraph (K)
5 the following new subparagraph (L):

6 “(L) the National Security Division of the
7 Department of Justice,”.

8 (b) NATIONAL SECURITY DIVISION OF DEPARTMENT
9 OF JUSTICE.—

10 (1) IN GENERAL.—Chapter 31 of title 28,
11 United States Code, is further amended by inserting
12 after section 509 the following new section:

13 **“§ 509A. National Security Division**

14 “(a) There is a National Security Division of the De-
15 partment of Justice.

16 “(b) The National Security Division shall consist of
17 the elements of the Department of Justice (other than the
18 Federal Bureau of Investigation) engaged primarily in
19 support of the intelligence and intelligence-related activi-
20 ties of the United States Government, including the fol-
21 lowing:

22 “(1) The Assistant Attorney General designated
23 as the Assistant Attorney General for National Se-
24 curity under section 507A of this title.

1 “(2) The Office of Intelligence Policy and Re-
2 view (or any successor organization).

3 “(3) The counterterrorism section (or any suc-
4 cessor organization).

5 “(4) The counterespionage section (or any suc-
6 cessor organization).

7 “(5) Any other element, component, or office
8 designated by the Attorney General.”.

9 (2) PROHIBITION ON POLITICAL ACTIVITY.—
10 Section 7323(b)(3) of title 5, United States Code, is
11 amended by inserting “or National Security Divi-
12 sion” after “Criminal Division”.

13 (c) CLERICAL AMENDMENTS.—The table of sections
14 at the beginning of chapter 31 of title 28, United States
15 Code, is amended—

16 (1) by inserting after the item relating to sec-
17 tion 507 the following new item:

 “507A. Assistant Attorney General for National Security.”;

18 and

19 (2) by inserting after the item relating to sec-
20 tion 509 the following new item:

 “509A. National Security Division.”.

21 (d) PROCEDURES FOR CONFIRMATION OF THE AS-
22 SISTANT ATTORNEY GENERAL FOR NATIONAL SECU-
23 RITY.—(1) Section 17 of Senate Resolution 400 (94th
24 Congress) is amended—



1 (A) in subsection (a), by striking “(a) The” and
2 inserting “(a)(1) Except as otherwise provided in
3 subsection (b), the”;

4 (B) in subsection (b), by striking “(b)” and in-
5 serting “(2)”; and

6 (C) by inserting after subsection (a) the fol-
7 lowing new subsection:

8 “(b)(1) With respect to the confirmation of the As-
9 sistant Attorney General for National Security, or any
10 successor position, the nomination of any individual by the
11 President to serve in such position shall be referred to the
12 Committee on the Judiciary and, if and when reported,
13 to the select Committee for not to exceed 20 calendar
14 days, except that in cases when the 20-day period expires
15 while the Senate is in recess, the select Committee shall
16 have 5 additional calendar days after the Senate recon-
17 venes to report the nomination.

18 “(2) If, upon the expiration of the period de-
19 scribed in paragraph (1), the select Committee has
20 not reported the nomination, such nomination shall
21 be automatically discharged from the select Com-
22 mittee and placed on the Executive Calendar.”.

23 (2) Paragraph (1) is enacted—

24 (A) as an exercise of the rulemaking power of
25 the Senate; and

1 (B) with full recognition of the constitutional
2 right of the Senate to change the rules of the Senate
3 at any time and to the same extent as in the case
4 of any other rule of the Senate.

5 **SEC. 507. REVIEW BY ATTORNEY GENERAL.**

6 (a) **APPLICABILITY.**—Section 2261 of title 28, United
7 States Code, is amended by striking subsection (b) and
8 inserting the following:

9 “(b) **COUNSEL.**—This chapter is applicable if—

10 “(1) the Attorney General of the United States
11 certifies that a State has established a mechanism
12 for providing counsel in postconviction proceedings
13 as provided in section 2265; and

14 “(2) counsel was appointed pursuant to that
15 mechanism, petitioner validly waived counsel, peti-
16 tioner retained counsel, or petitioner was found not
17 to be indigent.”.

18 (b) **SCOPE OF PRIOR REPRESENTATION.**—Section
19 2261(d) of title 28, United States Code is amended by
20 striking “or on direct appeal”.

21 (c) **CERTIFICATION AND JUDICIAL REVIEW.**—

22 (1) **IN GENERAL.**—Chapter 154 of title 28,
23 United States Code, is amended by striking section
24 2265 and inserting the following:



1 **“§ 2265. Certification and judicial review**

2 “(a) CERTIFICATION.—

3 “(1) IN GENERAL.—If requested by an appro-
4 priate State official, the Attorney General of the
5 United States shall determine—

6 “(A) whether the State has established a
7 mechanism for the appointment, compensation,
8 and payment of reasonable litigation expenses
9 of competent counsel in State postconviction
10 proceedings brought by indigent prisoners who
11 have been sentenced to death;

12 “(B) the date on which the mechanism de-
13 scribed in subparagraph (A) was established;
14 and

15 “(C) whether the State provides standards
16 of competency for the appointment of counsel in
17 proceedings described in subparagraph (A).

18 “(2) EFFECTIVE DATE.—The date the mecha-
19 nism described in paragraph (1)(A) was established
20 shall be the effective date of the certification under
21 this subsection.

22 “(3) ONLY EXPRESS REQUIREMENTS.—There
23 are no requirements for certification or for applica-
24 tion of this chapter other than those expressly stated
25 in this chapter.

1 “(b) REGULATIONS.—The Attorney General shall
2 promulgate regulations to implement the certification pro-
3 cedure under subsection (a).

4 “(c) REVIEW OF CERTIFICATION.—

5 “(1) IN GENERAL.—The determination by the
6 Attorney General regarding whether to certify a
7 State under this section is subject to review exclu-
8 sively as provided under chapter 158 of this title.

9 “(2) VENUE.—The Court of Appeals for the
10 District of Columbia Circuit shall have exclusive ju-
11 risdiction over matters under paragraph (1), subject
12 to review by the Supreme Court under section 2350
13 of this title.

14 “(3) STANDARD OF REVIEW.—The determina-
15 tion by the Attorney General regarding whether to
16 certify a State under this section shall be subject to
17 de novo review.”.

18 “(2) CLERICAL AMENDMENT.—The table of sec-
19 tions for chapter 154 of title 28, United States
20 Code, is amended by striking the item related to sec-
21 tion 2265 and inserting the following:

“2265. Certification and judicial review.”.

22 “(d) APPLICATION TO PENDING CASES.—

23 “(1) IN GENERAL.—This section and the amend-
24 ments made by this section shall apply to cases



1 pending on or after the date of enactment of this
2 Act.

3 (2) TIME LIMITS.—In a case pending on the
4 date of enactment of this Act, if the amendments
5 made by this section establish a time limit for taking
6 certain action, the period of which began on the date
7 of an event that occurred prior to the date of enact-
8 ment of this Act, the period of such time limit shall
9 instead begin on the date of enactment of this Act.

10 (e) TIME LIMITS.—Section 2266(b)(1)(A) of title 28,
11 United States Code, is amended by striking “180 days
12 after the date on which the application is filed” and insert-
13 ing “450 days after the date on which the application is
14 filed, or 60 days after the date on which the case is sub-
15 mitted for decision, whichever is earlier”.

16 (f) STAY OF STATE COURT PROCEEDINGS.—Section
17 2251 of title 28, United States Code, is amended—

18 (1) in the first undesignated paragraph, by
19 striking “A justice” and inserting the following:

20 “(a) IN GENERAL.—

21 “(1) PENDING MATTERS.—A justice”;

22 (2) in the second undesignated paragraph, by
23 striking “After the” and inserting the following:

24 “(2) NO FURTHER PROCEEDINGS.—After the”;

25 and



1 (3) in subsection (a), as so designated by para-
2 graph (1), by adding at the end the following:

3 “(2) APPLICATION FOR APPOINTMENT OF
4 COUNSEL.—If a State prisoner sentenced to death
5 applies for appointment of counsel pursuant to sec-
6 tion 3599(a)(2) of title 18 in a court that would
7 have jurisdiction to entertain a habeas application
8 regarding that sentence, that court may stay execu-
9 tion of the sentence of death, but such stay shall ter-
10minate not later than 60 days after counsel is ap-
11pointed or the application for appointment of coun-
12sel is withdrawn or denied

13 “(3) MATTER NOT PENDING.—For purposes of
14 this section, a habeas corpus proceeding is not pend-
15ing until the application is filed. ”.

16 **TITLE VI—SECRET SERVICE**

17 **SEC. 601. SHORT TITLE.**

18 This title may be cited as the “Secret Service Author-
19 ization and Technical Modification Act of 2005”.

20 **SEC. 602. INTERFERENCE WITH NATIONAL SPECIAL SECU-** 21 **RITY EVENTS.**

22 (a) IN GENERAL.—Section 1752 of title 18, United
23 States Code, is amended—

24 (1) in subsection (a)—

